



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	120A	Dispute Resolution	12/9/2008
Subchapter:	1	Introduction And Overview	
Section	3	Definitions (N.J.A.C. 10:120A-1.3)	

§10:120A-1.3 Definitions

(a) The definitions in N.J.A.C. 10:122B-1.3 and 10:133-1.3 are hereby incorporated by reference. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative hearing" means a hearing held by the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-9 et seq. and 52:14F-1 et seq., and N.J.A.C. 1:1.

"Administrative Hearings Unit" or "AHU" is the hearings unit of the Department responsible for monitoring and transmitting contested and uncontested cases, in accordance with N.J.A.C. 1:1-8.2 and 21.1, to the OAL.

"Agency decision" means any decision of the Division made as the result of a dispositional review and which is not a final agency decision.

"Appeal" means a request for modification or reversal of a Division action.

"Appellant" means the party who is requesting a reversal or modification of a Division action.

"Business days" means the five working days of a week, other than Saturday, Sunday and legal holidays.

"Department" means the Department of Children and Families.

"Dispositional review" means an independent examination of a Division action that is conducted by a Review Officer through a record and document review or by examining relevant records and documents and either convening a meeting of the relevant parties in the Division action under dispute or conducting a telephone conference.

"Division action" means a decision, plan or conduct by a Division representative, an Institutional Abuse Investigation Unit employee or an employee of the Office of the Public Defender acting as the Division's agent in

conflict matters within the scope of the individual's official duties, which results in a "Division service issue," a "status issue," or which may result in a contested case as specified in N.J.A.C. 10:120A-4.3(a), but does not include a personnel action.

"Division service issue" means a Division action affecting a case goal or a case plan necessary to achieve a case goal, as allowed in N.J.A.C. 10:133D-1, and limited to: the denial of a request for, or the reduction, suspension or termination by a Division representative of the following services, as defined in N.J.A.C. 10:133-1.3 and listed in N.J.A.C. 10:133E-2: adoption subsidy, child care, discharge planning and aftercare services, domestic violence services, DYFS Legal Guardianship Subsidy Program, educational support, emergency maintenance service, family preservation services, health care services, homemaker service, mentor services, out-of-home placement, post-adoption services, pre- and post-natal services, psychological/therapeutic services, respite care, self-sufficiency skills, substance abuse services, Title XIX Medicaid, transportation; or parent and child visitation as described in N.J.S.A. 9:6B-4 and N.J.A.C. 10:122D-1; or the failure of a Division representative to act with reasonable promptness on a request for any of the above services.

"Final agency decision" means:

1. A final decision by the Commissioner or designee pursuant to N.J.S.A. 9:3A-6 that adopts, rejects or modifies an initial decision by an administrative law judge;
2. An initial decision by an administrative law judge that becomes a final agency decision by operation of N.J.S.A. 52:14B-10;
3. A final decision by the Review Officer, after a dispositional review conducted in accordance with these rules;
4. A Division action that becomes a final agency decision when the appellant does not choose to exercise his or her right to further dispute resolution; or
5. A final decision by the Commissioner or designee granting summary disposition and affirming a Division action.

"Finding" means the final determination made by a child protective investigator and his or her supervisor of the results of a child protection investigation.

"Initial decision" means the administrative law judge's recommended findings of fact, conclusions of law and disposition, based upon the evidence and arguments presented during the course of the hearing and made a part of the record which is sent to the agency head for a final decision, as defined in N.J.A.C. 1:1-2.1.

"Institutional Abuse Investigation Unit (IAIU)" means the Department unit charged with the responsibility of investigating allegations of abuse or neglect in out-of-home settings, excluding DYFS-operated facilities.

"Motion for Summary Disposition" means a motion that is prepared when no material facts are in dispute. If granted by the Commissioner or designee, a Motion for Summary Disposition denies the request for an OAL hearing and requires the Commissioner or designee to determine whether the Division action resulting from the undisputed facts is proper based on applicable law, regulations and policies, and accordingly to issue a final agency decision, affirming, reversing or modifying the Division action. If a motion for summary disposition is denied by the Commissioner or designee, the matter is transmitted to the OAL.

"Office of Administrative Law (OAL)" means the office in but not of the Department of State in which an administrative law judge presides over administrative hearings, established under N.J.S.A. 52:14F-1 et seq.

"Record and document review" means a type of dispositional review, conducted by a Review Officer, of the relevant documents and records related to a Division action under dispute.

"Reduction" means the Division action about a service determined by the Division to be necessary for the achievement of the case goal, which Division action causes the client to receive fewer hours or units of a service. Reduction does not include a change in provider or location of the service or a change in the schedule of the service that does not also cause fewer hours or units of the service.

"Relative" means a birth or adoptive brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, first cousin, niece, nephew, as well as relatives of half blood or marriage and those denoted by the prefixes "grand" and "great," including grandparent or great-grandparent, and limited to those having a history of being active in planning for the child's future.

"Resource parent" means a person licensed pursuant to N.J.S.A. 30:4C-27.3 et seq.

"Review Officer" means a Department representative who was not involved in the Division actions being appealed and who is charged with the responsibility of conducting a dispositional review as authorized by these rules.

"Service provider" means:

1. Each of a child's relatives who is assessed for his or her willingness and ability to assume care of the child pursuant to N.J.S.A. 30:4C-12.1;
2. A relative or family friend caregiver or applicant in the DYFS Legal Guardianship Subsidy Program; or
3. A resource parent.

"Sibling" means birth brother or sister, half brother or sister, legal brother or sister and stepbrother or sister.

"Status issue" means:

1. The determination that a child's relative is unwilling or unable to assume the care of the child pursuant to N.J.S.A. 30:4C-12.1(b); or

2. The denial or termination of a relative or family friend caregiver to participate or continue to participate in the DYFS Legal Guardianship Subsidy Program in accordance with N.J.A.C. 10:132A.

"Status quo" means the relevant circumstances immediately prior to the dispute.

"Substantiated" means a finding when the available information, as evaluated by the child protective investigator and supervisor, indicates by a preponderance of the evidence that a child is an abused or neglected child as defined in N.J.A.C. 10:133-1.3 because the child victim has been harmed or placed at risk of harm by a parent or guardian, as defined in N.J.S.A. 9:6-8.21. A child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for this reason alone, be considered to be an abused or neglected child, nor shall this condition preclude the Division from providing service or seeking court relief as in N.J.A.C. 10:129-4.

(b) The following terms shall have the following meanings within N.J.A.C. 10:120A-1, 2 and 3, unless the context clearly indicates otherwise:

"Division" means the Division of Youth and Family Services, the Institutional Abuse Investigation Unit in the Department of Children and Families, or the Office of the Public Defender acting as the Division's agent in conflict matters.

"Division representative" means a professional employee of the Division of Youth and Family Services, the Institutional Abuse Investigation Unit, or of the Office of the Public Defender acting as the Division's agent in conflict matters.